

R E M A R K S

Claims **1-2** have been cancelled, and claims **3-27** have been added. Claims **3, 16, and 23** are the only independent claims.

After entry of this amendment, claims **3-27** will be pending in the application.

A. RESPONSE TO COMMUNICATION MAILED ON DECEMBER 8, 2006; NOTICE OF NON-COMPLIANT AMENDMENT

We wish to thank Examiner Van Bramer for the telephone interview of December 21, 2006 pertaining to the status of this application. The Examiner confirmed that the Amendment and Response mailed by Applicants on September 18, 2006 that was deemed non-compliant was not entered (pursuant to MPEP 821.03; Form paragraph 8.26). Therefore, prior to the present Amendment, claims **1 and 2** were pending. Accordingly, the remainder of the comments of this Amendment and Response are directed to addressing the Non-final Office Action mailed on March 16, 2006.

B. THE DOUBLE PATENTING REJECTION

Claims **1-2** were rejected as being unpatentable over claims 1-2 of U.S. Patent No. 6,327,573 to Walker et al. (hereinafter "Walker") on the grounds of nonstatutory obviousness-type double patenting.

Claims **1-2** have been cancelled without prejudice, and thus the double patenting rejection is now moot. Consequently, applicants request withdrawal of this rejection.

C. THE 35 U.S.C. 102(B) REJECTIONS

Claims **1-2** have been rejected for allegedly being anticipated in view of U.S. Patent No. 5,537,314 to Kanter.

Claims **1-2** have been cancelled without prejudice, and thus the rejections based on 35 U.S.C.102(b) are now moot. Consequently, applicants request withdrawal of this rejection.

D. NEW CLAIMS 3-27

New claims **3-27** have been added, and claims **3, 14, and 23** are independent claims.

New independent claim **3** recites a method that generally pertains to completing a transaction with an account holder or a sub-account holder determined to be present, determining a reward, and then allocating the reward to at least one of the primary account holder and any sub-account holders determined to be present. New independent claim **14** recites a computer readable medium storing instructions configured to direct a processor to operate in the manner of claim **3**. In addition, independent claim **23** recites a system that includes a transaction controller including a microprocessor and a memory, an input device, and an output device configured to operate in the manner recited by claim **3**. Support for claims **3, 16** and **23** can be found, for example, in the specification on page 5, line 3 to page 7, line 7, page 17, line 23 to page 19, line 4, page 21 line 29 to page 28, line 28, and in Figs. 1 and 7. No new matter has been added.

New claims **3-27** are similar to claims **1-2** in that the new independent claims require a transaction, and recite determining a reward and allocating the reward based upon the account holders that are present. In addition, new claims **3-27** are distinct from those of U.S. Patent No. 6,327,573 to Walker et al. (“Walker”) because, for example, claim 1 of Walker requires at least one sub-account holder to be present with a cardholder, and recites transacting with at least one of the present sub-account holders, calculating a reward level, allocating at least a portion of the reward level, and updating the customer record, which is distinct from that recited by pending independent claims **3, 14 and 23**.

We also submit that pending claims **3-27** are patentably distinct from Kanter. In particular, Kanter discloses a referral recognition system for an incentive award program. Referring to the Figure shown in Kantor and to column 21, lines 9-67, a participant 72 can become a “member” of location 14 and then tell others about location 14. If another participant 74 joins the program of location 14 and mentions participant 72’s account number, then participant 72 becomes his “sponsor” and is eligible to earn commissions on sales (line 26) made by participant 74. In addition, participant 72 can earn commissions on sales of other participants that he recruits, and may be eligible to earn commissions on sales by others recruited by participant 74 as well. Thus, this program defines a pyramid-type structure or scheme, wherein

the participants at the top of the pyramid earn commissions for sales generated by those participants below him or her (which appears to be similar to the scheme promoted and used by the Amway Corporation to distribute and sell its products). In contrast, the present claims are directed to a process wherein a single customer transaction is analyzed, account holders are identified as being present, and then a reward is determined and allocated to those present account holders. There is nothing in Kanter that teaches or suggests such operation, and thus claims **3, 14 and 23** are patentably distinct thereover.

In view of the above remarks, we respectfully submit that independent claims **3, 16, and 23**, and their associated dependent claims **4-13, 15-22 and 24-27** are allowable over the cited art of record.

E. AMENDMENT TO THE SPECIFICATION

The specification has been amended to update the priority data on page 1 of the application to reflect that U.S. Patent Application No. 09/223,900, filed December 31, 1998, for "MULTIPLE PARTY REWARD SYSTEM UTILIZING SINGLE ACCOUNT", has now issued as U.S. Patent No. 6,327,573. No new matter has been added.

F. AUTHORIZATION TO CHARGE APPROPRIATE FEES

Applicants were granted a three-month extension of time to respond in the Response mailed on September 18, 2006. The present Amendment is being filed within one month of the mailing date of 8 December, 2006 of the Notice of Non-Compliant Amendment, and thus we believe it to be timely.

The Commissioner is authorized to charge Deposit Account No. 50-0271 for the surcharge fee for the addition of five (5) claims in excess of twenty. We do not believe that any other fees are due, but if a fee should be necessary to continue prosecution of the present application, please also charge any such required fee to our Deposit Account No. 50-0271. In addition, please credit any overpayment to Deposit Account No. 50-0271.

G. CONCLUSION

For the foregoing reasons it is submitted that all of claims **3-27** are in condition for allowance, and the Examiner's early re-examination and reconsideration are respectfully requested.

If there are any questions regarding the present application, or if the Examiner has any suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Stephan Filipek at telephone number (203) 461-7252 or via electronic mail at sfilipek@walkerdigital.com.

Respectfully submitted,

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Date

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